THE MADRAS LEGISLATIVE COUNCIL

Monday, the 3rd April 1961.

The House met in the Council Chamber, Fort St. George, at three of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

MR. CHAIRMAN: Question No. 231.

As the hon. Member Sri T. P. Srinivasavaradan is not in his seat the question and the answer thereto will be printed in the Official Report of the proceedings.

Tiruvallur Municipality

* 231 *Q.*—SRI T. P. SRINIVASAVARADAN: Will the Hon. the Minister for Revenue be pleased to state whether any representation has been received from Tiruvallur Municipality in August, 1960 about the inadequate supply of water and if so, the action taken or proposed to be taken thereon?

THE HON. SRI R. VENKATARAMAN (on behalf of the Hon. the Minister for Revenue): Yes, Sir.

The Municipal Council addressed the Government for according sanction for diversion of Rs. 15,000 from General Fund Account capital, to Water-Supply and Drainage Account, for immediate execution of certain water-supply works, due to very acute water-supply position. The Commissioner has been informed that sanction of Government is necessary only for diversion of earmarked funds and that the additional allotment may be made by reappropriation from the General Account and the fact reported to the auditors.

Government land

* 232 *Q.*—SRI MOHAMMED RAZA KHAN: Will the Hon. the Minister for Revenue be pleased to state:—

(*a*) whether the Government have leased or sold any land to the Reserve Bank of India, the Madras Port Trust and the All-India Radio, Madras; and

(*b*) if so, the terms and conditions under which they have been leased or sold?

THE HON. SRI R. VENKATARAMAN (on behalf of the Hon. the Minister for Revenue): (*a*) Yes.

(*b*) A statement[a] is placed on the table of the House.

Guineaworm

* 23. *Q.*—SRI S. NATARAJAN (on behalf of SRI T. P. SRINIVASAVARADAN): Will the Hon. the Minister for Revenue be pleased to state whether any report has been received from the

[a] Printed as Appendix I on pages 203–204 infra.

health authorities in the Chingleput district that guineaworm are present in ponds and if so, the action taken or proposed to be taken thereon?

THE HON. SRI R. VENKATARAMAN (on behalf of the Hon. the Minister for Revenue): A survey report has been received from the Director of Public Health which shows that certain places in the District were infected. Water sources in the infected places where breeding of cyclops was noticed will be taken up for treatment with chemicals.

VIDWAN T. MUTHUKANNAPPAN: செங்கற்பட்டு ஜில்லாவில் எந்தெந்த இடங்களிலே இந்த நோய் இருப்பதாகக் கண்டு பிடிக்கப்பட்டிருக்கிறது? அதை நிவர்த்திக்க என்ன பரிகாரம் எடுத்துக்கொள்ளப்பட்டது?

THE HON. SRI R. VENKATARAMAN: மதுராந்தகம் தாலுக்காவில் ஓரத்தி கிராமத்திலும், செங்கற்பட்டு தாலுகாவில் சிங்கப் பெருமாள் கோவிலும் இருப்பதாக முதலில் கண்டுபிடிக்கப் பட்டது.

MR. CHAIRMAN: Questions are over.

[Note.—An asterisk (*) at the commencement of a speach indicates revision by the Member].

II.—GOVERNMENT BILL.

THE LAND ACQUISITION (MADRAS AMENDMENT) BILL, 1961. (L.A. BILL NO. 11 OF 1961).

* THE HON. SRI R. VENKATARAMAN: Sir, I move—

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961),[a] as passed by the Legislative Assembly, be taken into consideration'.

Under the Land Acquisition Act, 1894, compensation for the lands acquired is payable as laid down in Section 23 of the Act. Section 24 of the Act lays down the conditions which shall be ignored while arriving at the valuation of the lands. The market value as on the date of publication of the Draft 4 (1) notification compensation for damages, other reasonable charges for any shift of residence or place of business and in addition a solatium of 15 per cent of the total market value have to be awarded as compensation for the land acquired. In recent times there have been large increases in the market value of lands in urban areas, including rise in values due to speculative transactions. The consequence has been payment of heavy amounts as compensation to private landholders by Government for acquisition of lands for the very necessary and essential schemes of housing. Naturally, such large payments from the public exchequer to private individuals has limited the quantum of housing schemes that could be taken up by Government. The theory as to property rights has undergone a radical change in all countries making the

[a] Printed as Appendix II on pages 204–205 infra.

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payment of an extra sum of 15 per centum hardly justifiable. In England the payment of this solatium has been given up from 1919. In our own country the Bombay Government have amended the Land Acquisition Act in 1948 to dispense with the payment of solatium in respect of housing schemes. Therefore, it has become necessary for this Government to modify and lay down suitable principles for payment of reasonable compensation for lands acquired for housing schemes.

The Government of India raised the question of freezing the value of lands acquired for housing schemes first in 1957. The Housing Ministers' Conference held in 1957 recommended that the State Government should pass enabling legislation for acquisition of lands at reasonable prices. The Fourth Housing Ministers' Conference at Hyderabad in 1959 reiterated this and recommended that suitable legislation should be passed within 6 months. In pursuance of this it is now proposed to amend the Land Acquisition Act, 1894, to lay down the principles on which compensation is to be awarded for the lands acquired for housing schemes.

It is proposed that the amount of compensation should be the market value of the land on the date of publication of the notification under Section 4 (1) of the Land Acquisition Act, 1894, or its average market value during the five years immediately preceding the date of publication of the draft notification, whichever is less. It is also proposed that the amount of compensation to be awarded should be determined on the basis of the actual use to which land was put on the date of publication of the notification under Section 4 (1) of the Land Acquisition Act, 1894, and not on the basis of the suitability or adaptability of the land for any other use. The rate of payment of solatium has been proposed to be reduced from 15 per cent to 5 per cent.

The Bill provides for the above objects.

I request the House, Sir, to accept the motion.

MR. CHAIRMAN : Motion moved— 3-10 p.m.

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be taken into consideration'.

Sri Raza Khan has given notice of an amendment. He will move his amendment now.

SRI MOHAMED RAZA KHAN : Sir, I move—

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Assembly, be referred to a Select Committee'.

I shall give the names of members later.

SRI S. NATARAJAN : I second the amendment, Sir.

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MR. CHAIRMAN : The motion and the amendment are before the House for discussion.

SRI MOHAMED RAZA KHAN : Sir, I have got my sympathy for the Minister for Industries and the Leader of the House and also admiration for him that, sitting alone on the Treasury Benches, and in the absence of the Minister concerned, he is piloting this Bill.

THE HON. SRI R. VENKATARAMAN : I may inform the hon. Member that this is my Bill, because is relates to housing. Only technically the Minister for Revenue is in charge, because he is in charge of land acquisition.

SRI MOHAMED RAZA KHAN : In that case the mistake ought to have been corrected much earlier, and the Bill should have been put in the name of the Minister for Industries.

THE HON. SRI R. VENKATARAMAN : No, it is not correct.

SRI MOHAMED RAZA KHAN : In that case the mistake ought to have been corrected much earlier, and the Bill should have been put in the name of the Minister for Industries.

THE HON. SRI R. VENKATARAMAN : No, it is not correct.

SRI MOHAMED RAZA KHAN : Then why was it given in the name of the Revenue Minister?

THE HON. SRI R. VENKATARAMAN : The purpose for which acquisition of land is made under this Bill is for housing. Land revenue as such, including land acquisition, is within the purview of the Minister for Revenue. Therefore the purpose is mine. The hon. Member need not have any difficulty. I will be able to answer all his criticisms.

SRI MOHAMED RAZA KHAN : I have absolutely no quarrel with the Leader of the House that the Bill is his. However, this matter should have been settled day before yesterday instead of to-day. However, I leave it here.

THE HON. SRI R. VENKATARAMAN : I thought it would be forgotten. Because the hon. Member is raising it again and again, I have to reply.

SRI MOHAMED RAZA KHAN : Sir, just a few words I will say before I speak on my amendment. It is a wholesome principle that during the budget session, important Bills are avoided as far as possible except of course a few Bills which are quite necessary. Bills which replace expiring Acts have to be brought before the House. Sir, I may say that right from the 30th January 1961 until to-day about 24 Bills have been moved and passed in both the Houses. Two important Bills have been referred to Select Committees in the other House. This shows that within a short period of one month or so, we have been asked to deal with about 26 Bills. If I could digress a little bit here,

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I can say that from the 25th February, about 18 Bills have been brought in here and got through. My submission is this. The Hon. Leader of the House is a stickler for rules and regulations so much that we ourselves have many times given up our non-official day for transacting Government business. I do not think it is fair on the part of the Government to bring in important Bills of this kind during the budget session. We are expected to bestow thought and attention on the Budget proposals--on the financial policies of the Government—rather than on Bills and other things. However, it is now too late to suggest anything for this session. At least in future, if the Hon. Leader of the House were to continue here, let him take cognizance of what I have said and avoid such Bills during the budget session. 3-30 p.m.

With regard to my amendment, may I submit that this is a very important Bill which cuts at the root of our fundamental rights? Such an important measure should not have been brought in and pushed through like this. The Hon. Leader of the House himself is in charge of Housing and he has said through the Press, and in the Legislature that as far as the City of Madras is concerned, purchase of house sites for construction of houses has been stopped. He has given a categorical assurance that such schemes will not be undertaken in the City. Therefore, I do not see any reason why this Bill has been brought in. This point requires clarification. I do not think conditions outside Madras City are as difficult either from the financial point of view or otherwise as the Government think. This Bill infringes upon the rights of the people. It is left to the Government to decide whether compensation should be given or not. 'Compensation' is a right which the people have been enjoying all along. Now, the Government cannot suddenly bring in a radical change like this. Unless ample opportunity is given to the public to place their point of view before the Government, this Bill should not be allowed to be passed. And the people cannot place their views before the Government unless the Bill is referred to a Select Committee. The Government cannot get their views either on the legal side or on the factual side of the case. In case my amendment is not accepted, I will reserve my opinion on the provisions of the Bill to be expressed when the Bill is taken up for consideration clause by clause. So, Sir, this is a question of fundamental rights. Government, however powerful or strong, and whatever majority they can command, cannot change the law one fine morning in an arbitrary way. They cannot in one sweep make such radical changes. All along it has been a question of market value. It is not so now, but the average of the last five years or the market rate on the date of notification whichever is less. Another change is the new phraseology, viz., the use to which the land is put. All along, it was not so. With regard to solatium, it is now brought down to five per cent from 15 per cent. The Government have referred to what happened in England and in Bombay. Such an important measure should go before a committee so that the Minister in charge along with the

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members of the Committee could have a detailed discussion and come to an understanding. People who will be affected by this measure should have the right to be heard. I know the Hon. Minister will take shelter under Article 31 of the Constitution but let us remember what Pandit Nehru himself said when the amendment to the Constitution was carried out. He said : 'While we have the power, we will not bring in anything arbitrary and force it upon the people'. Is this Bill not an arbitrary one? The Hon. Minister might also say that Committee means time and labour. But I ask : Where is the urgency for this measure? On the Minister's own statement, as far as the City of Madras is concerned, the Housing Board or the Corporation or the City Improvement Trust cannot undertake any big housing scheme. So, Sir, if this Bill gets through—apart from the snags I have pointed out—it will give only a handle to the Government to think that such measures can be got passed at any time. They will quote this Bill as a precedent in future. At least to prevent such a thing, I say and maintain that this Bill should be referred to a Select Committee.

SRI K. BALASUBRAMANYA AYYAR : Sir, I am not on the question whether we have passed 19 or 20 Bills. Let us not be deflected from our duty to oppose the Bill because it is an important Bill. Whether it is brought in now or at some other time, it has to be opposed, because it seeks to introduce new principles in the matter of compensation. The Land Acquisition Act of 1894 has been there on the Statute Book all these years and now, for the first time, whatever may be the purpose behind it, and every purpose of Government is an important purpose, a new principle is introduced. Whether the principle is good or bad, let us not be deflected from the consideration of its importance. The question is whether a man can be deprived of his property and whether compensation should not be given to him under Article 31 of the Constitution. I mean real compensation, full compensation under the Land Acquisition Act. Sir, this solatium has been prescribed in the Act for the specific reason that the land is acquired compulsorily, and not because acquisition will make any difference from case to case. For the very reason that compulsion is used, solatium has been given. On what ground can that be reduced now? It is compulsory acquisition, whether it is for housing or for anything else. So long as it is compulsory on what principle can the 15 per cent be reduced to five? Is there any urgency for acquisition of land? Is it for the defence of the country? Have the Government got no money? What is this 15 per cent worth today? It is equal to 1½ per cent now. It cannot be reduced to nothing. About the reasons for this reduction, nothing is stated in the statement of objects and reasons.

My second point is, the principles of compensation have been altered. The High Court itself said that if there was a boom in land value in 1920 in Bombay, the advantage thereof could be

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taken by the sellers. The Judges said: 'Can'. The question is: 'Market value on the date of publication'. That has not been changed. What is the market value? It is the value which the seller would get for the property sold in the open market. Therefore what are the conditions that govern the open market, those he can take advantage of? Always it has been accepted that the seller would get the amount if he had sold the property in the open market.

Often it is said that these are speculative transactions. What is the meaning in referring to htem as speculative transactions. If a man has purchased a piece of land in 1884 and he continues to possess it till 1960 and wants to sell it in 1960 and by selling it gets some more money is it speculation? There is no question of speculation in that. Speculation is buying and selling for the sake of profit. Sir, words have been used without reference to particular transactions. What is speculation? Have the Government appointed any committee to enquire into cases of speculation? Some speculation there might have been as there has been a spurt in prices of other articles and commodities. Even if there is a spurt in prices, the principle under the Land Acquisition Act all these years has been that the seller can take advantage of that spurt in prices.

Sir, the Government pass some land legislation laws. All people are selling away their lands and coming to the City. They have 20 or 30 crores of rupees with them and they want to buy property. For all these things who is responsible? Nobody is responsible. There are 17 lakhs of people now in the City and they want houses. All these are various considerations. And the seller can always get the price based on the conditions regulating the market. That is all the principle. Now the Government want to go back on that and say "average of five years' price when there was no spurt except some general rise in prices." But now there is a spurt in prices and the towns have become more and more important and people are crowding in towns. Therefore the general economic law regulates these prices and the seller can certainly take advantage of it. The principle so long has been that the seller will get the market value. But still if the Government want to regulate it, let us consider the question deeply in a Select Committee. It is not for the reasons that 19 or so many other Bills have been brought in that we want the Bill to be considered by a Select Committee. Let us go into the whole question and see what are the conditions that make it necessary to make a thorough change in the principles so far followed, the principles which have stood since 1894 to 1860.

So far as the Constitution is concerned it does not say anything except adequacy of compensation. No law can be questioned on the question of adequacy. But this is not a question of adequacy. It is a question of principle. It was argued that every property had an intrinsic value. It was negatived in the High Court. There is no question of any intrinsic value. Value

is the one which the seller will get in the open market. That is the only test of value. There is no question of any intrinsic value. The 1894 value will be one thing and the 1960 value will be quite another thing. We are progressing as the Government say. We are in a developing economy when everything develops. When asked about the rise in prices the Government say we are in a developing economy and therefore prices are bound to go up in a developing economy. But when there is this rise in the value of land the Government do not want it.

Sir, this a fundamental principle so far as the Land Acquisition Act is concerned. When property is acquired compensation, full compensation should be given and that is the principle of Article 31 of the Constitution. But the question of adequacy is there but on that account you cannot question any law. But here the Government want to change the principle itself. The compensation will be the average of the past five years and not the market value. Why should he got only the average and not the market value? Market value is there and the Government have not changed it. It is a definition which has been accepted everywhere. Market value is the value which the seller will get in the open market. Therefore this is a question of principle and therefore let us sit together and consider what the great factors are which induced the Government to change this very principle of the law. Let us enquire and let us calmly discuss and find out the reason for changing this principle. That is the only amendment the hon. Member has brought before the House. There is no hurry about the matter. You can have the advantage of the cool climate of Kodaikanal and discuss it in a Select Committee there and come to a conclusion. With the permission of the Chair we can meet at Kodaikanal and come to a decision on the matter. That is all what the hon. Member wants.

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So far as the motion is concerned, even if we have no Bill during the Budget session and if it involves a question of principle, it should go before a Select Committee, because many transactions dealing with property are involved and many people in the whole of the State in towns like Madurai, Tiruchirappalli, Tinnevelly will be affected. Therefore, I would like the Bill being considered by a Select Committee.

SRI M. SESHACHARIAR : Mr. Chairman, Sir, the objection that was sought to be raised against the Bill is that it affected fundamental rights and therefore it should be referred to a Select Committee. The Statement of Objects and Reasons says that there has been an abnormal increase in the market value of lands in recent times in and around the City of Madras and also in other towns. That nobody can deny. In the last four or five years there has been a rise in prices. This Bill does not fix a date line as in the Bombay Act, which you cannot alter once the

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* Expunged as ordered by the Chair.

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date is fixed. In this legislation the average of five years prior to the date of notification will be taken into consideration. This important difference we have got to keep in mind with regard to the Bombay Act and this legislation. For the Bombay Act, 1946 is the relevant date. The Courts have held that it would not matter even if an anterior date is fixed in cases where there has been some abnormal rise in prices. That was so in most cases. The Supreme Court also held that anterior date could be fixed and there can be no objection to it. Only it should be relevant. It should be a date when the prices began to rise. That is the only consideration that has to be kept in mind. It is not as if the Courts have said at any time that the prices should never be related to an anterior date. As a matter of fact when the notification under 4 (1) is made it is only some time after that date that the property is taken over. It takes two or three years to acquire the property. (Sri K. Balasubramanya Ayyar : They have to pay for damages. Yes, for damages alone and not for rise in prices. Damage to crop or other things under section 48 alone will be paid and not for other things. If there is a rise in price—it may be two or three years even before the land is taken possession of—there is no question of damage. Therefore the fixing of an average price for five years prior to the date of notification is not illegal. There is no anterior date fixed as in Bombay. As a matter of fact people have been saying everywhere that what was selling for Rs. 1,500 and 2,000 per ground is now selling at Rs. 6,000 to Rs. 7,000. That is what everybody has been complaining. If a poor man or an institution wants to purchase sites, it becomes very difficult.

SRI K. BALASUBRAMANYA AYYAR : Suppose a poor man has a site?

SRI M. SESHACHARIAR : It is impossible. The hon. Member is thinking of the rich men who have cornered a number of sites.

SRI K. BALASUBRAMANYA AYYAR : Sir, I object to the statement of the hon. Member. There may be poor men who may be denied the benefit. Sir, in this House I speak and the other hon. Members speak on behalf of the common people. That is what we assume. But let not the hon. Member say that we are speaking on behalf of the rich men.

SRI M. SESHACHARIAR : A single site or even two or three sites do not matter. I am not referring to them. They are not going to be acquired by the Government. It is large pieces of land that the Government want for housing scheme. Therefore it is a question of people having large property and trying to sell at high prices, creating fictitious documents. We know number of documents have been created during the last two or three years. In a case of this kind, we have seriously to consider what to do. Regarding solatium, I can say this much. It is only an addition to the compensation that is paid. Section 23 (1) 3–30 p.m.

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relates to the compensation, that is, price and section 23 (2) relates to solatium. Solatium is practically a gift, as the Courts say. In the City Improvement Trust Act, no solatium is provided for. Formerly, when land was acquired for slum clearance, solatium was neglected. But now in all cases, no solatium is provided for under the City Improvement Trust Act. Other States also have passed similar legislations. Therefore, Sir, it is not necessary to refer this Bill to a Select Committee.

* DR. A. SREENIVASAN : Sir, I support the amendment so ably moved by my friend Sri Raza Khan. I wish to tell you with all the emphasis at my command that this Bill has got a political background. That is my fear. They are going to take away the land from owners thereof and parcel them out to their favourites. That is the idea. The Government may contradict me and the party men may contradict me. After the lands are acquired, we will know at our cost to whom these lands are going to be given. They will go to certain people who are the favourities of the party in power. Already there is the talk in the town—I do not know about other places—that there will be a sort of rush for the lands that will be acquired by the Government. The Government have not told us and they have not taken us into their confidence as to what they propose to do with the lands to be acquired. What is the *modus operandi* of giving away the land to other people? Are they going to sell the land by public auction or are they going to do it by private negotiations, or are they going to do it by any method that they like in the circumstances or in the exigencies of a political nature? There are, to my knowledge, hundreds of people owning small pieces of land purchased at market value. If those pieces of land are going to be taken away by the Government, will they not be losers? The party in power is talking in season and out of season, about the sufferings of the small man. It is the small man that is going to be hit hard on account of this Acquisition Bill. People talk about the spurt in prices. Why is it so? It is due to the devaluation of the rupee. It is only three annas in value. It has not the full sixteen annas value as it had some time ago. Naturally food prices have gone up, and the prices of other commodities also have gone up. There have been speculations in the field of trade and commerce. Why should this Government come with this Bill at the tail end of their term? The general elections are coming soon. Therefore I put two and two together and come to the conclusion that it has got a strong political motive. (Laughter). People may laugh at me. But they will wring their hands one day when these lands will be given to political favourites. Why is this indecent haste to come forward with this Bill? In 1955 the Central Government passed the Land Acquisition Amendment Bill, and wanted to give any amount of money to the State Governments to acquire lands in order to prevent the soaring of prices. Why did this Government sleep all these days and come forward with a Bill at the tail end of the session and ask us to pass it with cast-iron urgency?

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This is nothing to be hurried about. As my friend has ably stated it is a matter that affects the fundamental rights of people. Of course, after this Government came into power. so many fundamental rights have been taken away. This is not going to be the last thing in the matter of losing fundamental rights by the common man.

There is another point also. Why were they between 1959 and now idle? Why did they not make use of the offer made by the Union Government in the matter of acquiring lands and other things in order to prevent rising prices? I may again say that it has got a political motive. At the time when the amendment to Article 31 of the Constitution was passed, what did the Prime Minister say, who is quoted in season and out of season by the party in power in their support whenever it suits them? This is a point which will not suit their purpose. He said that there would be fairness and no discrimination. But there is going to be unfairness and discrimination. All these things will come. Sir, a lot of people have purchased land and invested money on it. Thousands of rupees have been invested on small bits of land purchased at market value. If Government are to take away those pieces of land and give them to Harijans, to pamper them now and then for political purposes, will they be doing the just thing? They have got something up their sleeves which I think it is very difficult for an ordinary man to understand.

SRI M. V. SUDARSANAM NAIDU : தலைவர் அவர்களே, இந்த பில்லை ரொம்ப போற்றக்கூடிய முறையில் கொண்டுவந்து இருப்பதுக்கு நான் நன்றி தெரிவிக்கிறேன். ஏனென்றால் இப்போது ஏழைகளுக்கு வழங்கவேண்டுமென்று சொல்கிறோம். ஒரு பக்கம் ஏழைகளுக்கு நிலம் கொஞ்சம்தான் இருக்கும். பணக்காரர்களுக்குத்தான் நிலம் நிறைய இருந்துகொண்டு இருக்கிறது. அப்படிப்பட்ட நிலங்கள் பல இடங்களில் பல சந்தர்ப்பங்களிலே எங்கேயும் இருக்கும். சில இடங்கள் வீடு கட்டிக்கொள்ளவும், இன்னும் மற்றவைகளுக்கு உபயோகப் படுத்திக்கொள்ளவும் இப்படிப்பட்ட பல சௌகரியங்களுக்கு வசதியாக இருக்கிறது. ஒன்றுக்கு 5 மடங்கு கொடுத்து வாங்கும்போது அரசாங்கமாக இருந்தாலும் சரி, தனிப்பட்ட முதலாளிகளுக்கும் சரி சில சிரமங்கள் உண்டாகின்றன. அம்மாதிரி சமயங்களில் அரசாங்கம் இந்த 5 வருஷத்திலே அதை ஈடாகப் பண்ணி ஒரு வரையறை செய்தால் கொள்முதல் சுலபமாக இருக்குமென்று சொல்லிக்கொள்ள விரும்புகிறேன். ஏனென்று கேட்டால் இப்போது ஒரு காரியம் செய்ய ஆரம்பித்தால் நம் தேசத்திலே மூலதனம் முடக்கப்பட்டு இருக்கிறது என்று சொல்கிறார்கள். ஆனால் சொல்லிக்கொண்டே இருக்கிறோம். ஒரு பக்கம் மூலதனத்துக்கு ஆக்கம் கொடுக்கிற முறையிலே நாம் அதிகமாகப் பணத்தைச் செலவழித்துக்கொண்டு இருக்கிறோம். ஒன்றுக்கு ஒன்று மாறுபாடாக பொருத்தம் இல்லாமல் இருக்கிறது. உண்மையிலேயே நாம் ஏழைகளுக்கு தொழில் விருத்திக்கு

[Sri M. V. Sudarsanam Naidu] [3rd April 1961

அல்லாது மற்றவைகளுக்கு உதவி பண்ணவேண்டுமென்றால் மூலதனத்தை அதிகமாகச் செலவு பண்ணாமல் சிக்கனமாக வழங்கவேண்டும். அதனாலே நிலச் சொந்தக்காரர்களுக்குக் கெடுதல் இருக்கிறதா என்றால் இல்லை. ஏதோ அநேகமாக பல இடங்களில் பல ஜில்லாக்களில் பார்க்கும்போது மதிப்பு இல்லாத இடங்களும் இருக்கின்றன, மதிப்பு உள்ள இடங்களும் இருக்கின்றன. ஒரு இடத்தில் அதிக விலை உடைய நிலங்களை நாம் எடுத்துக்கொள்ள வேண்டி வருகிறது. அந்தமாதிரி சமயங்களில் நாம் தொழில் விருத்தி மற்ற விருத்திகளுக்காக ஏழைகளுக்குக் கொஞ்சம் சிக்கனமாக நிலத்தை வாங்கி அவர்களுக்குப் பிரதி பிரயோசனத்துக்கு கொடுக்கும்படி செய்வதில் எந்தவிதமான ஆட்சேபணையும் கிடையாது. நமது அரசாங்கம் இந்தத் திட்டத்தைச் கொண்டுவந்ததற்கு நான் நன்றி செலுத்தி இதை நான் ஆமோதிக்கிறேன்.

3-0 p.m. SRI ABDUL HAMEED KHAN : Sir, I support the principle of the Bill for it will be too late in the day to suggest that we should follow a different policy from what we have been following in recent times. Our policy has been defined very clearly and this Bill is framed in pursuance of that policy. The measure seeks to help the poor people undoubtedly. It has been suggested that this Bill will affect the rich much. But it must also be remembered at the same time that this measure is not a measure which is going to affect people who are not really interested in speculation. It is true that in the carrying out of the objects of this Bill, some persons will be affected adversely. It will have to be seen that particularly such persons as widows and ladies who possess only one piece of land for the whole family are not affected. There are people who are really not rich but yet may own some land. That land may be the only property belonging to those people. I trust that in working the Act, people who are poor, those who have just a piece of land for the benefit of a whole family, will not suffer.

SRI S. NATARAJAN : Sri, I think there can be a sort of general acceptance of the principle behind the Bill inasmuch as it tries to restrict the rise in prices of house-sites. We are all anxious that there should be more housing facilities, that more houses should be built, and that the prices of house-sites should be controlled. But the manner in which this Bill is rushed through makes me wonder whether this hurry is warranted. I am not going into the legality of certain of the provisions. My Friend, Mr. Seshachariar said that they were perfectly legal. But I have great doubt whether they are just and whether they will not affect adversely the interests particularly of poor people owning small pieces of land. I do not know in these days when prices are rising if the average price that we would be giving to the man whose land we are compulsorily acquiring is fair price. It requires careful consideration on what basis the average should be computed. In

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fixing the average price, certain considerations should be taken into account and one of the considerations is the use to which the plot is put. I am thinking of persons who are poor but who own just a small piece of land and keep it vacant for want of means to put up a building or do something else, and of a piece of land owned by a person who has got the means of utilising it and who actually puts it to some use. In this case, i.e., in the case of the latter, the land will fetch a higher price because of the consideration of the use to which it has been put whereas the person who is poor will get less. It is more or less on the principle that God gives to those who have something and from those that have not much. He taketh even the little that they have. I do not want the Government to follow that principle. This matter requires careful consideration and, therefore, the Government should agree to the Bill being referred to a Select Committee which might examine all these and see that justice is done to the people whose property we are compulsorily acquiring and that the purpose for which this measure is brought in is also served. I do not know if any great loss would result if the Bill is not passed to-day. If it is referred to a Select Committee I am sure the Committee can give some thought to these problems and make suitable amendments to the Bill, so that it might come up before the House at the next session in an acceptable form and be passed. Then it will help everybody. I would therefore very strongly support the motion that this Bill be referred to a Select Committee.

* **VIDWAN T. MUTHUKANNAPPAN :** தலைவர் அவர்களே, இந்த மசோதாவை நான் மனமார வரவேற்கிறேன். நீதி ஸ்தலங்களிலே உள்ள வழக்கறிஞர்களின் அறிவுத் திருவிளையாடல்களால் எழுந்த விளைவுதான் இது. அவர்களுக்கு நான் நன்றி செலுத்தக் கடமைபட்டிருக்கிறேன். இந்தத் திருத்தமானது சமயசஞ்சீவியாக வந்திருக்கிறது. ஆனால் இந்தத் திருத்தங்களோடு இந்த மசோதா சிறந்த முறையிலே ஒழுங்காகப் பூரணமாக அமைக்கிறது என்றே சொல்லலாம். இதற்குக்கூட இப்படிப்பட்ட கடுமையான எதிர்ப்பு இருக்கிறதே என்பதைக் கண்டு என்னால் ஆச்சரியப்படாமல் இருக்க முடியவில்லை. எதிர்க்கட்சி அங்கத்தினர்களெல்லாம் எதிர்க்கும் கட்சி அங்கத்தினர்களாகவே பேசினார்கள், மிக காரசாரத்தோடு. இதை எண்ணும்போது ஆடு நனைகிறதென்று ஓநாய் அழுதது என்பார்களே அந்தச் சம்பவம்தான் என் கண்முன் வருகிறது! . . .

DR. A. SREENIVASAN : புலிகூட ஆட்டுத் தோலைப் போட்டுக்கொண்டு ஆடமுடியும்.

VIDWAN T. MUTHUKANNAPPAN : மதிப்புக்குரிய டாக்டர் சீனிவாசன் அவர்கள் இதிலே ஏதோ அரசியல் காரணம் இருப்ப 3-50 p.m.
தாகக் கூறினார்கள். இது அவர்கள் நினைப்பு. காமாலைக் கண்ணனுக்கு கண்டதெல்லாம் மஞ்சள் என்பதுபோல இருக்கிறது.

DR. A. SREENIVASAN : வைத்திய முறையிலே அது தப்பு. வைத்தியப் பிரகாரம் அதுமாதிரி நினைப்பது தப்பு.

VIDWAN T. MUTHUKANNAPPAN : அவர் டாக்டர், வைத்தியர். அவருக்கு அப்படித் தோன்றுதிருக்கலாம். ஆனுல் சாதாரண மனிதர்களுக்கு அப்படித்தான் தோன்றும். இது சகஜமான பழமொழி.

DR. A. SREENIVASAN : அப்போ அதைப்பற்றிப் பேசக் கூடாது.

VIDWAN T. MUTHUKANNAPPAN : இந்த விவாதங்களைக் கவனிக்கும்போது, சுதந்திரா கட்சியின் சங்கநாதம் முதல் முதலாக இந்த சபையில் ஒலிக்க ஆரம்பித்து இருக்கிறதோ என்று தான் சந்தேகம் ஏற்படுகிறது. இதோடு நிறுத்திக்கொள்கிறேன்.

இந்த மசோதாவை நுணுகிப் பார்க்கும்போது இது வளர்ந்து வருகின்ற சோஷலிச பாணி சமதர்ம அரசாங்கமாகையால் இதற்கு மிக ஏற்றதாக இருக்கின்றது. அதற்கு மிக இன்றியமையா திருத்தம் இந்த மசோதா. இதனுலே ஏழைகளுக்கும், நடுத்தர வகுப்பினருக்கும் நன்மையே ஏற்படும். அவர்களுக்கு விமோசனம் வந்துவிட்டது. நடக்க முடியாமல் முடங்கிக் கிடந்த ஏழை எழுந்து நிற்பான். அடிபெயர்ந்து நடக்கமுடியாமல் நின்றவன் தலை நிமிர்ந்து பீடு நடை போட்டு நடப்பான். ஆனுல் தலைகால் தெரியாமல் விண்ணையெட்டும்படிக் கண்ணை மூடிக்கொண்டு பறந்தவன் தட்டி அடக்கப்பட்டுச் சமநிலைக்கு வருவான். ஏராளமான நிலங்களை வைத்துக்கொண்டு விற்று கொள்ளை லாபம் அடித்து கொண்டு இருப்பவர்கள்தான் இதை ஒப்புக்கொள்ளாமல் இருப்பார்கள். மிட்டாதார்கள், மிராசுதாரர்கள், ஜமீன்தாரர்கள், தங்களுடைய ஏராளமான செல்வத்தைக்கொண்டு நூற்றுக்கணக்கான ஏக்கர் நிலங்களை வாங்கி 100, 200-க்கு ஒரு மனை என்று வாங்கிப் போட்டுவிட்டார்கள். அது இப்போது ரூ. 3,000, 4,000-க்கு விற்கப்படுகின்றன. தமிழ் நாட்டிலுள்ள மிகப்பெரிய வீடுகட்டும் கூட்டுறவு சங்கத்தோடு பல ஆண்டுகள் சம்பந்தமுடையவன் என்ற முறையில் சில புள்ளி விபரங்களைச் சொல்லிக்கொள்ள விரும்புகின்றேன்.

ஐந்து ஆண்டுகளுக்கு முன்னே 300 ரூபாய்க்கு விற்ற நிலம் எனக்குத் தெரியும். அடையாற்றிலே பக்தவத்சல நகரிலே 300 ரூ. விற்றது. அதற்கு அடுத்த வருஷத்தில் 500. பிறகு ரூ. 1,000. 1,500, இன்று 3,000 ரூ. இப்படி ஆயிருக்கிறது.

SRI K. BALASUBRAMANYA AYYAR : அப்போ ரூபாய்க்கு என்ன மதிப்பு, இப்போ என்ன மதிப்பு?

VIDWAN T. MUTHUKANNAPPAN : இருந்தாலும் இது பகற் கொள்ளைதான். இங்கே மூன்று இடங்களிலே திருத்தங்கள் இருக்கின்றன. இது அமுலுக்கு வரும் நாளிலிருந்து 5 ஆண்டுகளுக்கு முன்னிருந்த விலையெல்லாம் கூட்டிச் சராசரியாகும் மார்க்கட் விலையைக் கொடுக்க உத்தேசித்து இருக்கிறார்கள். இந்த நிர்ணயம் அதிகமாகத்தான் இருக்கிறது என்று சொல்லிக்கொள்ள விரும்புகிறேன். கணக்கு எடுத்துப்

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பாருங்கள். ஐந்து ஆண்டுகளுக்கு முன்னே ரூ. 300. நான்கு ஆண்டு களுக்கு முன்னே ரூ. 500. மூன்று ஆண்டுகளுக்கு முன்னே ரூ. 700. இரண்டு ஆண்டுகளுக்கு முன்னே ரூ. 1,000, சென்ற ஆண்டு ரூ. 1,500 என்று கணக்கு எடுத்தால் ரூ. 4,000 வருகிறது. அதை 5-ஆல் வகுத்தால் ரூ. 800 வருகிறது அதாவது சராசரி ரூபாய் 800. இதுகூட அதிகம் என்று நான் நினைக்கிறேன். ஐந்து ஆண்டு களுக்குமுன் ரூ. 300-ஆக இருந்த நிலங்களுக்கு இப்போது அரசாங் கமே ரூ. 800 கொடுக்கிறதே. ஆகையினால் இந்த விதத்தில் பார்த் தாலும் சிறந்த மசோதா இது.

அது மட்டுமல்ல. இன்னொன்று. இந்த சொலேஷியம் அதாவது தயவுப் பணம் கொசுறு என்று சொல்வார்களே விலை கொடுத்து ஒரு பொருள் வாங்கினால் கொசுறு கொடுப்பார்கள். அது 15 பர்சன்டாக இருந்தது. ஏற்கனவே 5 சதவிகிதம் குறைக்கப்பட்டு இருக்கிறது. ஆனால் அங்கே கூட அரசாங்கம் கொஞ்சம் அதிகம் கொடுத்து இருக்கிறார்கள் என்று நினைக்கத் தோன்றுகிறது. இதன் படிக் கணக்குப் போட்டுப் பார்ப்போம். ஆறு ஆண்டுகளுக்கு முன் ஒரு நிலத்தின் விலை ரூ. 250, அதற்குத் தயவுப் பணம் 15 சதவீதம் ரூ. 37½ ஆகிறது. இப்போது அதன் விலைப்படி (ரூ. 800) அரசாங்கம் 5 சதவீதப்படி கொடுத்தால் ரூ. 40 (5 × 8) அல்லவா ஆகிறது. எனவே அந்த வகையிலும் ஒன்றும் பாதிக்கப்படுவ தாகத்தோன்றவில்லை. ஆகையால் எந்த வகையிலும் இது சிறந்த மசோதா என்று வற்புறுத்தி அழுத்தம் திருத்தமாகச் சொல்லிக் கொள்ள விரும்புகிறேன். இப்படித் தருவதில் இந்த நிலங்கள் எல்லாம் எதற்குப் பயன்படுத்தப்பட்டு வருகின்றனவோ அவற்றை உத்தேசித்து விலை போடப்படவேண்டும். வருங்காலத்தை உத்தேசித்து விலை போடமுடியாது என்ற முறையில் கவனித்துத் தான் செய்யப்பட்டிருக்கிறது. எந்தக் காரணத்திற்காகப் பயன் படுகிறதோ அதன்படிதான் இந்த நஷ்டஈடு விலை கொடுக்க அரசாங்கம் முன்வந்திருக்கிறது.

ஆகவே எல்லா விதத்திலும் மசோதா ஏழை மக்களுக்கு நடுத்தர மக்களுக்கு நல்வாழ்வு அளிக்கவே செய்யப்பட்டிருக் கிறது. சுதந்திரக் குடியரசு நாட்டிலே முக்கியமானவை உணவு, இடம். இந்த உணவையும் இடத்தையும் போதுமான அளவு அரசாங்கம் கவனித்துக் கொடுக்கவேண்டியது கடமை என்று உணர்ந்து, இந்தத் திருத்தத்தைச் செய்திருக்கிறார்கள். எல்லா வகையிலும் ஒப்புக்கொள்ளக்கூடிய நேர்மையான சிறந்த திருத்தம் என்று சொல்லிக்கொண்டு நான் முடித்துக்கொள்ளுகிறேன்.

* Dx. A. LAKSHMANASWAMI MUDALIAR : Mr. Chairman, Sir, I am not going to make a speech but I would be grateful if the Hon. the Leader of the House would throw some light on the following paragraph that appears in a paper placed on the table of the House to-day. It says :

[Dr. A. Lakshmanaswami Mudaliar] [3rd April 1961

'In 1951 an extent of 86 acres of land in the unsurveyed foreshore to the east of Fort St. George was transferred to the Port Trust on payment of compensation of Rs. 30 lakhs. In 1959 a further extent of about 427 grounds was placed at the disposal of the Port Trust subject to the payment of cost at Rs. 3,000 per ground.'

This is in answer to a question by the hon. Member Sri Raza Khan. My point in referring to the paper is that the Government themselves have demanded this amount from the Port Trust authorities and this will be very relevant to the consideration of the legislation now before the House. I therefore want the House to note the figures.

'In 1959 a further extent of about 427 grounds was placed at the disposal of the Port Trust subject to the payment of cost at Rs. 3,000 per ground.'

That is the area just opposite the Fort St. George.

'In 1960 further extents measuring 733 grounds at Rs. 3,000 per ground and 97 grounds at Rs. 2,000 per ground and 116:5 grounds at Rs. 1,500 per ground have been placed at the disposal of the Port Trust.'

No doubt the Hon. the Leader of the House may say that it is within the Corporation limits. But I am not sure whether the principle, 'for what purpose the foreshore was used' was taken into consideration in fixing the price. So, far as I am aware, it is used for one purpose because the Health authorities are not able to prevent it.

Sri M. PATANJALI SASTRI: With your leave, Mr. Chairman, I want to make an observation on this proposal. It is this. I have some doubt and if the Hon. the Leader of the House would clear that doubt of course my objections would fall to the ground. I have some doubt about the public purpose underlying the measure. In this Bill 'housing scheme' has been defined thus:

"In this Act, unless the context otherwise requires 'housing scheme' means any State Government scheme the purpose of which is increasing house accommodation and includes any scheme by a local authority, company or body corporate for such purpose undertaken with the previous sanction of the State Government."

The language used is so wide that it seems to me that it may cover even purposes which are non-public and strictly not public. Therefore if the Bill is referred to a Select Committee the point could be thrashed out with reference to decided cases and a suitable formula of the definition may be evolved. It is on that ground that I support the motion for referring the Bill to a Select Committee. Now it has been definitely decided by various decisions

3rd April 1961] [Sri M. Patanjali Sastri]

of the Courts in the land that unless there is a public purpose, deprivation of private property will be unconstitutional and void. According to the definition given here, merely because the Government contemplate a housing scheme, does it necessarily mean that it is for a public purpose? For instance under the Land Acquisition Act, the same provisions contemplate the company moving the machinery of the Act for the purposes of acquiring property on behalf of the company. I suppose all those provisions are left intact, and no amendment is sought to be introduced in respect of them. That Act was passed at a time when nobody thought of the fundamental rights and the public purpose as defined by the Constitution. Therefore it seems to me that so long as these provisions subsist in the Act, that is to say, so long as the company can make use of the machinery of the Land Acquisition Act to help them to acquire compulsorily private property, such use or purposes may not be necessarily public purposes. A company may have, for instance, housing schemes for the purpose of providing increased accommodation for its employees. That cannot be a public purpose. If such purposes are contemplated under the definition contained in this Bill of Housing Schemes, then I am afraid it will be open to Constitutional objection. I would in this connection draw the attention of the Hon. Minister to the decision of the Supreme Court, so that he may be forewarned as to what may happen. In this case the Act of the Madras Legislature was set aside. I may briefly mention the purport of the decision of the Supreme Court. It said that if the language used in the enactment is wide enough to cover purposes for which constitutionally permissible legislation is undertaken and also purposes which are outside such constitutionally permissible legislation, then the Act would be void. It cannot be contended as it was contended in that case that at least the Act could be left alone in so far as it may be sought to be applied to constitutionally permissible purposes, taking care to avoid constitutionally non-permissible use or application. But the Supreme Court said that in such cases the language used cannot be severable because the same language is used both for one set of purposes and for quite another set of purposes. Therefore the whole thing was held void. I am sorry I have not got at the decision to quote (After a pause). It is here and I will quote it. The Supreme Court held void the Madras Act XXIII of 1949. Section 9 (10) (a) of that Act was the offending section. It was argued that this section " could not be considered wholly void, as, under article 13 (1) an existing law inconsistent with a fundamental right is void only to the extent of the inconsistency and no more. In so far as the securing of the public safety or the maintenance of public order would include the security of the State . . ." As regards Security of the State, restriction would be permissible, constitutionally permissible, such as restriction of freedom of speech and so on. Now to continue the quotation . . . the impugned provision as applied to the latter purpose, was covered by clause (2) of article 19 and must, it was said, be held to be valid. We are unable to accede to this contention. Where a law purports to

4 p.m.

authorize the imposition of restrictions on a fundamental right in language wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting such right, it is not possible to uphold it even so far as it may be applied within the constitutional limits as it is not severable. So long as the possibility of its being applied for purposes not sanctioned by the Constitution cannot be ruled out, it must be held to be wholly unconstitutional and void. In other words, clause (2) of article 19 having allowed the imposition of restriction on the freedom of speech and expression only in cases where danger to the State is involved, an enactment, which is capable of being applied to cases where no such danger could arise, cannot be held to be constitutional and valid to any extent.'

Therefore, taking this definition, as it had been framed, I am afraid that it is capable of being construed as covering non-public purposes, because even though a housing scheme launched by the State Government may in most cases be for a public purpose, it is conceivable, especially when they are going to move the land acquisition machinery in favour of a company, that the definition may cover purposes which are strictly not public but which are non-public. Therefore, this matter also the Government will have to consider along with the members of the Select Committee. So, I support the amendment of Sri Mohamed Raza Khan.

Sri M. ETHIRAJALU : சார், இந்த நில மசோதாவை நான் வரவேற்று இரண்டொரு வார்த்தைகள் சொல்லிக்கொள்ள விரும்புகிறேன். நில ஆர்ஜித மசோதாவை எல்லோரும் இப்போது முழு மனதுடன் வரவேற்றாலும்கூட இந்த மசோதாவை சர்க்கார் இப்போது கொண்டு வருவதற்குப் பதிலாக இன்னும் 5 வருஷங்களுக்கு, 7 வருஷங்களுக்கு முன்னதாகவே கொண்டுவந்திருந்தால் ஓரளவுக்கு எல்லோருக்கும் நன்மையாக இருந்திருக்கும். சி.ஐ.டி. யினால்தான் நகரத்தில் நிலத்தின் விலை ஏறிவிட்டது. மக்கள் இதைக்கண்டு குறைகூறிய பிறகு அதிக விலை விற்கும்படியான நிலையில் இருந்து கொண்டிருக்கும்போது ஒரு கட்டுப்பாடு மசோதா கொண்டு வந்திருப்பது யார் நிலத்தை வைத்திருந்தாலும் பாதிக்கப்போவதில்லை என்பதுதான் என் கருத்து. இப்போது மசோதாவில் ஒன்று சொல்லப்பட்டிருக்கிறது. ஆனால் மார்க்கெட் விலை வேண்டும் என்கிறார்கள். நகரத்தில் இப்போது ஒரு கிரவுண்டு 4,000 ரூபாய்க்குக் குறைந்த விலைக்கு யாராலும் வாங்க முடியவில்லை. மார்க்கெட் விலை என்று சொல்வது எப்படிப் பொருந்தும்? ஐந்து வருஷ சராசரியில் இருக்கக்கூடிய விலை என்று சொல்கிறார்கள். ஐந்து வருஷங்களுக்கு முன்னிருந்ததைவிட இப்போது விலை ஏறிவிட்டது. ஆகையால் இந்த மசோதாவினால் யாரும் பாதிக்கப்படவில்லை. இப்போது இருப்பதைவிட இன்னும் அதிக விலை கொடுக்கவேண்டுமென்று வியாச்சியம் நடத்தி அதிகப்பணம் கேட்டுக்கொண்டிருக்கும் நேரத்தில் அதைத் தவிர்க்கத்தான் இந்த மசோதா இப்போது வருகிறது. ஆகையால் இதில் யாருக்கும்

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கஷ்டம் இல்லை. மற்றொரு விஷயம். இந்த மசோதா நகரத்திற்கு மட்டுமா அல்லது நகரத்திற்கு அப்பால் இருக்கும் கிராமத்தில்கூட இந்த விலை நிர்ணயம் உண்டா, அதைச் செய்வது யார், என்று சரியாகத் தெரியவில்லை. சென்னை நகரத்தைப் பொருத்தவரையில் வீட்டுக்கோ அல்லது மற்றக் காரியங்களுக்கோ நகரத்தில் நிலம் வாங்கப்போவதில்லை என்று சொல்லியிருக்கிறார்கள். நண்பர் முத்துக்கண்ணப்பன் அவர்கள் கூறியதுபோல அதிகப்படியான நிலத்தை 100 ஏக்கர் 200 ஏக்கர் என்று வைத்துக்கொண்டு தொழில் அபிவிருத்தி பரவலாக வரும் நேரத்தில் அந்த நிலங்களை அதிக விலைக்கு விற்று கொள்ளை லாபம் அடிக்க நினைக்கிறவர்களை இது ஓரளவு பாதிக்கும். ஐந்து வருஷ சராசரி என்பதை எடுத்து விட்டு ஐந்து வருஷத்திற்கு முன்னால் வாங்கியதில் ஏதாவது கூட்டிக் கொடுத்துவிட்டால் யாரையும் புண்படுத்தாமல் இருக்கும். மார்க்கெட் விலை வைத்து விலை நிர்ணயம் செய்வதும் சராசரி வைத்துச் செய்வதும் ஏழைகளுக்கு பின் தங்கியவர்களுக்கு பொருந்தாது என்பது என்னுடைய கருத்து. அதோடு 15% சொலேஷியம் பீஸ் கொடுக்கவேண்டுமென்று சொல்கிறார்கள். விற்கிற விலையைக் கொடுக்கிறபோது இவ்வளவு அதிக பட்சமானதான 15% கொடுக்கவேண்டுமா என்று கேட்கிறேன். நான், 15%, என்றும் 5% கூட கொடுக்கவேண்டாமென்று சர்க்காரைக் கேட்டுக் கொள்ளுகிறேன். அப்போதுதான் நாம் ஓரளவுக்கு நன்மை செய்ததாக இருக்கும். இதையும் அரசாங்கம் கட்டுப்படுத்த வேண்டும். 15% என்ற முறையில் கூட்டிப் பார்க்கும்போது இப் போது மார்க்கெட் விலையைவிட அதிகமாகத்தான் அது இருக்க முடியும். வேறுவிதமான அரசியல் காரணமாக இதைச் செய்வ தாகச் சொல்லப்படுகிறது. அரசியல் காரணமாக இதைக் கொண்டிருந்தால் மார்க்கெட் விலைப்படி என்று சட்டம் செய் திருக்க வேண்டியதில்லை. அதனால் எப்போது மார்க்கெட் விலைப் படி என்று சொல்லிவிட்டார்களோ அதிலிருந்தே இதில் அரசியல் காரணத்திற்கு இடமில்லை என்று தெரிகிறது என்பதைச் சொல்லிக் கொள்ளுகிறேன். யாரோ ஏதோ சொன்னால் அதை நாம் கேட்கக் கூடாது. அவசரப்பட்டு எதையும் சொல்லிவிடக்கூடாது. செலக்ட் கமிட்டிக்குப் போகவேண்டுமென்றார்கள். இது செலக்ட் கமிட்டிக் குப் போனால் நிச்சயமாக 15% சொலேஷியம் கொடுக்கப்பட வேண்டுமென்பது அடிபடும். ஐந்து வருஷ சராசரி என்பதும் குறைக்கப்படும் என்பதைத் தெரிவித்துக்கொள்ளுகிறேன். அப்படி அனுப்பப்போவதில்லை. பொதுமக்களும் நிலம் வாங்குபவரும் விற்பவரும்கூட பாதிக்கப்படக்கூடாது என்ற முறையிலே இந்தச் சட்டம் கொண்டுவருவது வரவேற்கத் தக்கது என்று சொல்லி முடித்துக்கொள்ளுகிறேன்.

* **SRI A. K. THANGAVEL MUDALIAR** நில ஆர்ஜித சட்டத் தைக் கொண்டுவருவதில் உடனடியாக ஒரு முடிவுக்கு வருவது அவ்வளவு நன்றாக இருக்காது என்று நான் அபிப்பிராயப்படு கிறேன். ஏனென்றால் ரொம்பச் சிக்கல் இருக்கிறது. எந்தச் சட்டத்தைக் கொண்டுவந்தாலும் கொஞ்சம் பொறுமையாகச் 4-10 p.m.

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செய்யவேண்டும். தங்களுக்கு ரொம்ப செல்வாக்கு இருக்கிறது, நாம் எதைக் கொண்டுவந்தாலும் நமக்கு ஓட் கொடுக்க ஆட்கள் நம் கட்சியில் இருக்கிறார்கள் என்ற நம்பிக்கையை வைத்துக் கொண்டு எதையும் அவசரமாகச் செய்யக்கூடாது. சட்டம் என்றால் நிதானம் என்று அர்த்தம். நிதானம்தான் முக்கியம். அறிவாளிகள் பக்கம்தான் உலகம் இருக்கிறது. அறிவாளிகளாக இருக்கிறவர்கள் இரண்டு மூன்று பேர்கள் இதைப்பற்றி அவசரம் வேண்டாம் என்று கூறியிருக்கிறார்கள் . கான்ஸ்டிடியூஷனைப்பற்றி மிகவும் தெரிந்தவர்கள் பேசியிருக்கிறார்கள். சட்டம் தெரிந்தவர்கள் சொல்லுகிறார்கள். நான் ஒன்றும் சட்டம் படித்தவனல்ல. அவர்கள் சொல்வதனால் நான் சொல்லுகிறேன். நீங்கள் அவசரமாகச் சட்டம் கொண்டுவருவதால் பின்னால் ஒவ்வொருவரும் கோர்ட்டுக்குப் போகப்போகிறார்கள். செலக்ட் கமிட்டிக்கு அனுப்பி நன்றாக யோசித்து அடுத்த வருஷத்திலே இதை முடித்துக்கொள்ளுங்களேன். இப்போது என்ன அவசரம்? கல்யாணப்பெண் தவறிப் போய்விடுமா ? அல்லது வேறு யாராவது பெண்ணை இழுத்துக் கொண்டு போகப்போகிறார்களா ? நானும் 1921-லிருந்து இது போன்ற சட்டங்கள் வருவதைப் பார்த்திருக்கிறேன். மாண்டேகு செம்ஸ்போர்டு காலத்திலிருந்து நான் அரசியலில் இருக்கிறேன். அப்போது எல்லாம் பொறுமையாக எதையும் செய்வார்கள். இப்போது இந்தத் சட்டத்தைக் கொண்டுவருபவர்கூட இங்கு இருப்பதில்லை. பொதுவாக எதற்கும் இவரைப்போட்டு இழுத்து அவருக்குத் தொந்திரவு கொடுக்கிறோம். அந்தந்தக் காரியங்களை அவரவர்கள் செய்யவேண்டுமென்பது இப்போது மறைந்து போய் விட்டது. ஆகையால் இந்தமாதிரி நிலையில் பொறுமையாக இருந்து செலக்ட் கமிட்டிக்கு அனுப்பி அடுத்த செஷனுக்குக் கொண்டுவந்து முடிவு செய்யலாம். ஏழைகளுக்குக் கொடுக்கிறார்கள் என்று முத்துக்கண்ணப்பன் அவர்கள் சொன்னார்கள். ஏழைகளுக்கு எப்போதும் கொடுக்கலாம். சர்க்காரே பணம் போட்டு வாங்கி ஏழைகளைக் காப்பாற்றலாம். நாங்களும் வெளியே போய் பேசுவோம். நீங்கள் இப்படி அவசரமாகச் செய்தால் இந்தச் சட்டத்தைக் கொண்டுவந்தது அநாகரிகமானது என்று வெளியே போய் பேசுவோம். எலக்ஷன் வரப்போகிறது. ஆகையால் பொறுமையாக இதை ஒத்தி வைத்து நிதானித்துச் செய்யவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

* THE HON. SRI R. VENKATARAMAN : Mr. Chairman, I shall endeavour to keep to the narrow path of relevance in this debate. The debate has gone on covering a very wide field, but in my humble view, the points for consideration before the House are only there. One is, is this legislation constitutionally valid and correct? The second is, is this legislation necessary? Thirdly, is the compensation fixed just and equitable? I shall confine my address to the House to these three points. Hon. Members are aware that when the amendment to the Indian Constitution was made, it was specifically provided under the amended article that any compensation that was fixed by the legislature shall not be

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called in question. I may briefly refer to the particular article. Article 31 (1) says, No person shall be deprived of his property, save by authority of law '. Then sub-clause (2) says—I shall omit the earlier portions and refer only to the relevant part ' . . . and no such law shall be called in question in any Court on the ground that the compensation provided by that law is not adequate.' Therefore my submission is that when the legislature in its wisdom fixes the compensation that is provided for in the amendment to the Land Acquisition Act, it is well within the four corners of the Constitution and therefore perfectly valid. I may in this connection refer to the speech of the Prime Minister who piloted this Bill in the Lok Sabha. Dealing with this question of conferring the authority on the legislature to fix the quantum of compensation, the Prime Minister said—

' . . . But it is true that the quantum of compensation will be determined by the legislature. I cannot say off-hand what in a particular case the legislature might do. But, by and large, if you have to govern this country democratically, you have to trust the legislature not only in this but in a hundred other matters of far greater moment. This legislature might decide on some ' far-reaching change affecting, well, the question of war and peace —a tremendous thing. Surely the Supreme Court will not decide that. It may decide technical questions in other ways which directly or indirectly will even affect property, planning, and all kinds of things may be done which will have a powerful effect on our social structure and economic structure and everything. But it is the legislature's will in such matters that is bound to prevail. There is no way out of it. To single out this question of the compensation to be given to property and to take it out of the purview of the legislature in the sense of somebody else revising the legislature's decision seems to me a basically wrong approach, unless of course you think that property is something semi-divine and that the protection of private property is to the largest good of the nation which obviously hardly any one to-day can say '.

Therefore, it is on this basis, Parliament enacted the amendment to the Constitution giving the power to the legislatures to fix the principles of compensation as well as even in some cases the quantum of compensation.

SRI M. PATANJALI SASTRI : Quantum alone is not questionable. Principles are open to objection in a court of law.

THE HON. SRI R. VENKATARAMAN : I submit, the legislature is competent to lay down the principles and they cannot be questioned in a court of law.

SRI M. PATANJALI SASTRI : Constitution does not say so.

THE HON. SRI R. VENKATARAMAN : We are not in a court of law There is no point in arguing.

SRI M. PATANJALI SASTRI : The Government have got the majority here.

THE HON. SRI R. VENKATARAMAN : If we have got the majority here, there are Courts outside. So this sort of. . .

Sri M. Patanjali Sastri rose.

THE HON. SRI R. VENKATARAMAN : I am not yielding, Mr. Chairman. Therefore, I venture to submit, Mr. Chairman, that the point is that this particular legislation is within the four corners of the Constitution, and, therefore, it is a valid and perfectly legal constitutional piece of legislation.

The second point which was raised by the hon. Member Sri Patanjali Sastri is that acquisition of land for a private company may not be a public purpose. We have the opinion of the Advocate-General on this matter, and we are advised that acquisition of land for a company for the purpose of housing would be a public purpose. It may be right or it may be wrong. But Government are advised by competent legal advisers in this behalf. Therefore I may put aside the question whether this particular law which we propose to enact now is valid or not.

Then the second point raised is, 'Is it now necessary to have this law?' Sir, it was in 1958 that the State Government conceived the idea of trying to create townships and neighbourhoods of the type that we have had in places like Gandhinagar and Thyagarayanagar, and when the Union Minister for Housing visited Madras in August 1959, the Minister in charge of Housing took him around and showed the various programmes which they had executed under the plan, and then mentioned to him that the
4-20 p.m. Government of Madras had got a scheme for acquisition of lands of this kind for the purpose of developing townships. Then it was suggested to the Government that the prices of land in those places might be frozen. Government examined this suggestion. But we were not quite clear about the legality of freezing the prices on a particular date. The reference to the Bombay legislation is not appropriate here because the Bombay Act was passed before the Constitution came into force and is protected by article 31 itself. Clause 5 of article 31 says :

"Nothing in clause (2) shall affect the provisions of any existing law other than a law to which the provisions of clause (6) apply, . . ."

And clause (6) deals with certification by the President of any law of any State enacted not more than eighteen months before the commencement of the Constitution. Therefore, the Bombay legislation will not be a good precedent for Madras. It was felt, Sir, that some other method of valuing property would have to be resorted to if large housing schemes had to be undertaken in this State. Large housing schemes are not obviously capable of being undertaken if we have to pay compensation on the basis of the

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possible use of the land. Particularly, after a notification saying that a particular land is going to be acquired for housing is issued, that land is obviously fit for housing and, therefore, if it is valued on the basis that it is a land which can be developed for housing, the value of the land will shoot very high. No housing scheme would be possible at that rate nor would it be within the reach of the middle-class, not to speak of the poorer class of people. In order to do good to the largest number of people in society the Government thought that the only way in which they could regulate the value of those lands which at present are not put to any definite use, but which could be put to a different use, was to take the actual use to which the land is put into consideration. Not the potential use. If potential use should determine the value of the land, it will increase the cost of the land to the ultimate buyer apart from increasing the cost of the scheme itself. Therefore, the Government have decided that it is necessary to bring in this legislation. I saw some criticism that the Government should have frozen the land values in 1959 itself or that the Government did not take advantage of the Central Government offer. Those people do not know that the Government of India themselves did not have any schemes but that the State Governments contemplated those schemes, even before the Government of India's suggestion came. It is because we felt some doubt in regard to freezing of land values we thought of having a different way of calculating the compensation. I now ask : Is the Bombay method superior to or better than the one we have contemplated? I submit, not. The Bombay Act pegged land values in 1946. In Madras, it is not so. If we take up a housing scheme in 1965, then we will take the average land value from 1960 onwards. If we took up any scheme in 1960, then the average land value from 1955 would be taken. In the present trend of rising prices, I humbly ask which is more reasonable, to have the five years' average, thereby giving the advantage to the owner to have the benefit of consequent social changes or to have pegging, thereby preventing the increased price accruing to the owner. I am quite sure that if any person considers the relative advantage of the schemes, he would have no hesitation in accepting the Government's scheme. Then, what is the amount of compensation that we want to give? It is not that the Government of Madras have become suddenly wise. Countries which are very progressive and countries which have been the champion of both *laissez faire* and private rights have adopted this particular method of valuation in their own countries for the purpose of housing and for town-planning. In England, a legislation was passed in 1919 and according to that law, the market value of the property shall be fixed only on the basis of the actual use to which the land is put and not of potential use. The solatium of 15 per cent also has been taken away. I wish to refer to that particular piece of legislation. It says :—

" No allowance shall be made on account of the acquisition being compulsory;

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The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers or for which there is no market, apart from the special needs of a particular purchaser or the requirements of any Government department or any local or public authority; provided that any *bona fide* offer for the purchase of the land made before the passing of this Act, which may be brought to the notice of the arbitrator shall be taken into consideration."

So, they have said that the purpose to which it was put shall be the basis. I do not think we are going to be much wiser in the
4-30 p.m. preservation of private property than the British people themselves. I therefore, venture to submit that the compensation proposed to be fixed is both fair and equitable and taking into account the large development that is taking place in cities and suburbs and also the urgent need for providing housing accommodation to the people, we will be guilty of having left the people to fend for themselves, if the Government do not take up the responsibility for providing housing and setting up house sites and housing colonies in the neighbourhood of the cities and in other places where there is need.

Lastly, I will say a word about the amendment seeking to refer the Bill to a Select Committee. Under normal procedures, both in the Lok Sabha and even here, a Bill which has been passed by one House when it comes to the other House is not referred to a Select Committee. (Interruption.) Yes, normally it is not referred to a Select Committee at that stage. There are no rules prohibiting it. But there are also no rules providing for it. I want to make this clear. While there is a rule in respect of a Bill originating in the Assembly or the Council being referred to a Select Committee, there is no rule at all for referring a Bill which has originated in the other House to a Select Committee. Therefore, Sir, I submit that technically it would not be proper to refer this Bill to a Select Committee. In any event, in view of the explanation I have given, I venture to submit that it is in the larger interest of the community as a whole that this Bill should be accepted by the House.

SRI MOHAMED RAZA KHAN : Sir, I will confine my remarks only to the point made by the Hon. the Leader of the House. The whole question is this. Whatever might be the reasons adduced by the Hon. the Leader of the House, this is an important measure, and it would be in the interest of the Government themselves to refer it to a Select Committee. The decision of the Government will ultimately prevail. However, if this is referred to a Committee, we can get the evidence of interested people and the members on the Select Committee would have ample opportunity to place their point of view before the Government. The Hon. the Leader of the House referred to the rules of procedure of the Lok Sabha. But I have known—I speak subject to correction because I do not have

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references readily at hand to quote—at least one Bill of this kind was referred to a Select Committee. The whole work by the Select Committee was finished within a day.

THE HON. SRI R. VENKATARAMAN : No, there has been no such case.

MR. CHAIRMAN : There is a definite rule in the Lok Sabha that the Bill cannot at this stage be referred to a Select Committee.

SRI MOHAMED RAZA KHAN : Are we following it here, Sir? My submission is that nothing will be lost by referring the Bill to a Select Committee. The Committee can go into the Bill in as short a time as possible and submit its report to the House. We would have given a further opportunity to the public also to place their viewpoint before the Select Committee. It is not after all a question of our saying that we are doing justice to the public. The public should be satisfied that justice is being done. For some reason or other the Bill was not referred to a Select Committee by the other House. It does not mean that we should also do it. Therefore, I feel in spite of the arguments of the Hon. the Leader of the House, that the Bill should be referred to a Select Committee.

MR. CHAIRMAN : The question is—

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be referred to a Select Committee.'

The amendment was put and lost.

MR. CHAIRMAN : The question is—

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be taken into consideration.'

The motion was put and carried and the Bill was taken into consideration.

Clause 2 was put and carried.

Clause 3.

MR. CHAIRMAN : The motion is—

'That clause 3 do stand part of the Bill.'

SRI K. BALASUBRAMANYA AYYAR : Mr. Chairman, Sir, I move—

(1) 'In item (i) to sub-clause (1) (*a*), *for* the words "five years" *substitute* the words "three years".'

(2) 'In sub-clause (1) (*a*), *omit* item (iv).'

The amendment was duly seconded.

SRI MOHAMED RAZA KHAN : Mr. Chairman, Sir, I move—
'In item (i) to sub-clause (1) (*d*), *for* the words, "five years" *substitute* the words "htree years".'

'In sub-clause (1) (*a*), *omit* item (iv).'

The amendment was duly seconded.

SRI K. BALASUBRAMANYA AYYAR : Sir, after what the Hon. the Leader of the House said, I do not feel there is much point in stressing anything. So far as my amendment is concerned, I want to submit that this market value is different for different areas and it goes on changing. In our city for example, in Tondiarpet, Royapuram and places in North Madras, the land values are decreasing. As we go this side, that is, south of Madras the values are increasing. Of course so far as Madras City is concerned, for housing purposes you may not acquire and therefore it may not be a practical point. But what I am trying to illustrate is that land values are changing differently in different areas. So far as legislation is concerned we must proceed on definite information. We cannot proceed on general impressions. There has been a general rise in prices of land. It has been so for several years. It was not confined to the last five years. The increase is going on over a period of several years. I have been in the city for a long time and I know lands worth Rs. 50 have gone up in value. The value has slowly increased not on account of other considerations, but the City is growing in importance because of trade and so on. There has been an increase in prices all these years, and that general increase you should take into account. But the Statement of Objects and Reasons mentions that there is a spurt in prices due to speculative transactions. This is a general statement not supported by specific instances to show that there has been a spurt in price of land. So far as I can say publicly and honestly there might have been some sudden increase in prices during the last three or two years other than the general increase that has been there for the last fifty years. The general increase in prices the Government should not take into consideration for this purpose. That is why I said the average should be for the past three years. And again in actual working if we are to take the average of the last three years, in areas like Tondiarpet and Royapuram, the price will be higher than the market value. In places where land values are decreasing, it will give higher prices to the landowner. In places where the land prices are increasing it will give a lower price to the landowner. Therefore the clause will work differently in different places according as there has been a rise or fall in land prices. The change in land values depends on the way in which the city is moving and improving. The city is moving south now. This is the condition so far as the city is concerned. There may be similar cases in respect of other big towns in this State. I do not know definitely what are the conditions that obtain there. Therefore I confine my remarks to the city itself. If as has been stated

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there has been a spurt in prices, it can be only within the last three years and, therefore, for the purposes of this clause, three years' period would be much better than five years.

SRI MOHAMED RAZA KHAN : Sir, in further support of my amendment to which my esteemed friend Sri Balasubramanya Ayyar referred, I would like to ask the Hon. Minister concerned why they have come to this period of five years, and what is the rationale behind it. After all, as was stated by hon. Members, it would not be possible for people to get all the statistics. The onus of proving the market price for five years will be on the people, who will be deprived of their lands. It is not as though the Government will have all the particulars and say, 'We want to be fair to you; market value is fluctuating; hence we take the average.' The responsibility will be shoved on the people to give the market value for the five years. To give particulars for five years will be very difficult. Therefore three years will be reasonable to me and to my friends here. It will be logical also. Recently we passed the City Tenants Protection Bill. In the original clause therein it was said that the average market value for the last seven years should be taken into consideration. But the Government for some reasons—I take it for very good reasons—said that it should be three years. In that Bill, wherein it was a question of transaction between private parties and parties, the Government insisted on three years. I do not know the logic here when they say 'five years'. I hope the Hon. Minister will tell us the rationale behind this 'five year' period. 4-40 p.m.

Let me say that the Minister argued very nicely, but to me it was not completely convincing. He quoted England and Bombay in support. The Central Government have given directions to the Madras Government. They said, 'Here you are going on with plans and schemes; people are taking advantage of them, and there is a spurt in prices.' But in other States, they have adopted different measures. Whenever they wanted a plot, they had taken as wide a plot as possible and not confined themselves to the smaller plot.

MR. CHAIRMAN : The hon. Member should confine himself to the amendment under discussion.

SRI MOHAMED RAZA KHAN : On the very argument of the Leader of the House, it is pertinent to the point. The amendment is in regard to the price. The Hon. Minister himself said that when they purchased a big piece of land and made improvements thereon, the prices of the neighbouring lands went up. The Government ought to have had the sagacity to take as extensive an area as possible instead of taking lands piecemeal. It is not only the poor people who will be suffering. Human nature being what it is, every one will like to get the market value for his land. The hon. Member opposite Sri Seshachariar argued vehemently and ably without point or purpose. Suppose one has purchased his

land at Rs. 500. Will he be pleased to take the average of the five years as the price for his land? Will anybody do it? It is impossible in the very nature of things. In reply to a question today, the Leader of the House on behalf of the Hon. the Minister for Revenue said that a paper was laid on the table of the House, and I could not therefore put supplementaries immediately. Very recently, Sir, we passed the Appropriation Bill for supplementary grants. There, we saw an item of expenditure of Rs. 5 lakhs for constructing the ' Madras House ' in Delhi. The Government did not tell us how much they paid for the land and how much they paid for construction. But I am given to understand that they paid very heavily for the land. Let the Hon. Minister refer to the department and tell the House how much money was paid for the land in Delhi. If the Union Government themselves are taking exorbitant price from the State Government, what is wrong if private people take a higher price here for their lands which are acquired by Government? Am I to understand that the Central Government have given to the Madras Government that plot of land for Rs. 3,000 per ground? They have given it for a much higher sum. I do not know the facts fully. But let the Minister disprove if what I say is not correct.

If we take all these into consideration, the three-year limit will be reasonable. There is one thing to which we are not paying our attention. According to the statement of the Minister himself, all big housing schemes either by themselves or by private bodies like mills or by the City Improvement Trust or the Housing Board or the Corporation as far as the City of Madras is concerned, will come to an end. The whole activity will be beyond the City of Madras. It will also be in Poonamallee. I am sure the hon. Member opposite Sri Seshachariar will try to convince the people in Poonamalle about this five-year period. He will have to face the music at that time. It looks as if while we allow big people in Madras to have their price at the market value, we are trying to put a sort of check on the price in the outskirts of the City of Madras. With all these, we feel honestly that three years will be very reasonable. It will be more workable. If, as I see the mood of the Leader of the House, he is not inclined to accept the amendment, I leave it to his judgment.

* THE HON. SRI R. VENKATARAMAN : Sir, in order to arrive at the average value of the land, some yardstick has to be taken, and Government thought that five-years would be a resonable yardstick to take note of two kinds of possibilities. One is where the land value was higher and had come down, and the other one is where the land value was lower and went up. If we have to find the mean, then it is necessary for us to take a period, and the period of five years appears reasonable. Therefore, I submit that I am unable to accept the amendment.

MR. CHAIRMAN : The question is—

" (i) In item (i) to sub-clause (1) (*a*), *for* the words ' five years ', *substitute* the words ' three years '.

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(ii) In sub-clause (1) (*a*), *omit* item (iv)."

The amendment was put and lost.

SRI K. BALASUBRAMANYA AYYAR: Sir, I move—

'*Omit* sub-clause (1) (*b*).'

Sir, I find that even in the Bombay Act they are not in favour of taking away the solatium. I do not agree with the hon. Member Sri Seshachariar here. They are not in favour of taking away that solatium. Solatium has been interpreted as a kind of gift. Solatium is not a kind of gift. Nobody wants any gift. That is meant as compensation for compulsory acquisition. That is all it means. This was before 1955. This principle has not been negatived. Paragraph 53 of the Law Commission Report (Tenth Report) says—

'We are also not in favour of omitting section 23 (2) so as to exclude the solatium of 15 per cent for the compulsory nature of the acquisition. It is not enough for a person to get the market value of the land as compensation in order to place himself in a position similar to that which he would have occupied, had there been no acquisition; he may have to spend a considerable further amount for putting himself in the same position as before. If, for example, the only property a person possessed was three acres of arable land and he was deprived of this under the compulsory power of acquisition, he would no doubt get the market value of his property; but he would not be in a position to provide himself with a vocation to which he had been all along accustomed. He must find suitable land in or about the locality where he resides which may not be easily available and he may have to wait and spend more than the amount of compensation he has obtained. As pointed out by Fitzgerald, the community has no right to enrich itself by deliberately taking away the property of any of its members in such circumstances, without providing adequate compensation for it.'

This is a principle which was generally accepted in all these cases. We cannot enrich the community by taking away the property of the people. This general principle is laid down as a policy. The community has no right at all to enrich itself at the expense of people owning property. We should have thought of this long before, i.e., in 1950, when we talked about the fundamental rights. Having done this, and having deliberately put these fundamental rights in the Constitution, we should try to reconcile both these things. We should not dub those people who talk of property rights as unsocial. We are as much social as any of those people who say that they are working for a socialistic pattern of society. We repudiate the suggestion that we are unsocial. We are working under a Constitution which began by recognising our fundamental rights. Those rights still remain. I submit and stick to the argument—I do not want to use the word 'argument'—that the principles of this Bill go against those of the Constitution, so far as compensation is concerned. I repeat

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'the community has no right to enrich itself by deliberately taking away the property of any of its members without compensation'. This solatium is not a free gift. That is also compensation, provided for the compulsory nature of the acquisition. The Legislature cannot make any gifts. Compensation is provided in two ways; one is general and the other special, i.e., the solatium. The Legislature took the whole thing into consideration and said that 15 per cent solatium would do ample justice and nobody has interfered with it all these years in spite of the 1919 Act of England. Therefore it is that I want this amendment. This five per cent will gradually become three, then two, then one and finally nothing. We must stop it at 15 per cent.

The amendment was duly seconded.

THE HON. SRI R. VENKATARAMAN : Mr. Chairman, ideas with regard to property and compensation undergo change. Undoubtedly in the nineteenth century, it was considered that 15 per cent solatium should be given and that that was equitable and fair. Even in England, in 1919, they thought that solatium was unnecessary and removed it. The Law Commission might say that the British enactment is not equitable and just. But the British do not think so and they are supposed to set standards for many socialistic legislations, though they cannot be called socialists or their country and their Government socialist. I do not agree that the Legislature is not competent in the twentieth century to change the basis of compensation. The Bombay legislation changed it much earlier. In the City Improvement Trust Act, there is no provision. Perhaps the Government should have done away with solatium completely. That would be in consonance with modern ideas. (Sri K. Balasubramanya Ayyar : I understand.) That would be the proper thing. But, however, because we want to move slowly and cautiously, we have provided for five per cent solatium. I cannot say ten years or fifteen years, hence people will not do away with this. Therefore, I cannot accept this amendment.

MR. CHAIRMAN : The question is :

"*Omit* sub-clause (1) (*b*)."

The amendment was put and lost.

SRI MOHAMED RAZA KHAN : Sir, I move :

"In sub-clause (1) (*b*), *for* the words 'five per centum' *substitute* the words 'ten per centum'."

The amendment was duly seconded.

SRI MOHAMED RAZA KHAN : The Hon. Leader of the House was quoting extensively from the Bombay and the English Acts. For that very reason, we wanted this Bill to go before a Select Committee so that we too could have the benefit of those Acts. Now we do not know anything about the provisions of those Acts and the circumstances under which they were enacted. Now

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the Hon. Minister has given us some idea of those Acts and perhaps two or three days' study might give us an idea of those enactments. Now, Sir, the Government are going to pay some money to these land-owners but that sum is too small to enable them to use it since the cost of everything has gone up. Very many people might think that it would be better to preserve their properties because whatever they may get by way of sale value will have no money value at all. It is only for this reason that 15 per cent solatium used to be given and the Government now say it should be only five per cent. It is not a question of argument. There should be logic and reasonableness. The Hon. Leader of the House says, 'even this five per cent, we ought to have given up, but we are very generous in giving it'. If that is the attitude of the Hon. Minister and the Government let them do anything. After all the public know what they have to do and at what time.

THE HON. SRI R. VENKATARAMAN : I have nothing to add to what I have stated. I oppose the amendment.

MR. CHAIRMAN : The question is :

"In sub-clause (1) (*b*), *for* the words 'five per centum' *substitute* the words 'ten per centum'."

The amendment was put and lost.

SRI M. PATANJALI SASTRI : Sir, I move :

"In item (iv) to sub-clause (1) (*a*), *after* the words and figures 'section (4), sub-section (1)', at the end, *add* the following :—

'and any other use to which it may be put by reason of its suitability or adaptability and which the person interested had in view before such date'."

The amendment was duly seconded.

SRI M. PATANJALI SASTRI : I wish to explain at the very outset the purpose of my amendment. The Hon. Minister pointed out that in England potential value or the possibility of increased value has been given up. I do not quarrel with that principle. My amendment is purely limited in scope. Section 24 is made to apply here with certain prohibitions, one being that nothing except the use to which the land was put at the date of the publication of the notification under section 4, sub-section (1) shall be taken into consideration. Therefore, the Collector or the court, as the case may be, when it comes to determine the compensation shall not give any effect to the possibility of increase in value. My other amendment is 'unless the person interested had such other use in view before such date'. You are aware, Sir, that very often it happens that a person, in view of his impending retirement buys one or two acres of land with a view to putting up a building in the centre and have a hobby in architecture or something like that around his building in the compound. He may be waiting for his accumulated money, provident fund or gratuity, for putting up the

building. But meanwhile, he cultivates the land. He puts up a kitchen garden or a mango garden. At that time, the bombshell of a notice under section 4 (1) is thrown. What is to happen? He purchases the land only for putting up a building or a bungalow surrounded by trees. As it is, the value to be taken might be the value of the kitchen garden. But is the fact to be ignored that he bought the land for putting up a bungalow? Is it to be valued as a kitchen garden or a plantain garden? My amendment is directed to that limited class of people where the person concerned is able to prove to the satisfaction of the compensating authority
5-00 p.m. that even before the date of notification, it was his view to put up a building and claims an increased value for the land. It must be open to him to prove his intention in order justly to decide the question of compensation. I do not quarrel with the principle adopted in England in the recent legislation. Let it be so. It may be part of recent principles of legislation in England which the Hon. Minister wants to follow here. I have no quarrel on that. But if a person purchased the land very recently before the notice came to be issued under section 4 (1) announcing the intention of the Government to acquire the land,—he purchases for a very definite purpose—why should he be deprived of the value of the land on which he had intended to put up a house? I submit this concerns fairness and justice and therefore my amendment should be accepted. I have no quarrel as I said with the general principles which the Hon. Minister had stated and I do not wish to go into a further consideration of the policy here. But surely this is a special case where a few people might have in consideration of various matters invested in property. Their idea might be to build a house of their own. That is why I have said in my amendment ' any other use to which it may be put by reason of its suitability or adaptability and which the person interested had in view before such date.' If the Hon. Minister thinks that the expression ' before such date ' is rather vague, we might put in ' three months before such date ' or ' six months before such date '. It may be people may get the wind of the idea of the Government to launch a building scheme and immediately they may say they had intended to do such and such a thing, to circumvent the legislation. Therefore the Government might say ' three months before such date ' or ' six months before such date '. The point is a person who had this view in mind, the construction of a building in view at some definite period before such date must be excluded from the rather drastic provision of this potential use. That is all my amendment.

* THE HON. SRI R. VENKATARAMAN : The point raised by the hon. Member Sri Patanjali Sastri refers to the old question of the potential use, the use to which the person intended it to be put should be taken into consideration. That is the gist of the hon. Member's amendment. In the first place it is difficult to find the intention of any owner of property as to what use he wanted to put that property to. This will give rise to an interminable series of enquiries and great deal of difficulties in the administration of

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the law. Secondly we feel that the actual existing use should be the basis of compensation and merely because he intended to put it to some other use or purchased it for the purpose of putting it to use should not be taken into account in the matter of fixing compensation. There may be hard cases but these hard cases will have to be decided by the authority, namely, the authority under the Land Acquisition Act and the authority above it. (An hon. Mmber : He is prohibited.) That is what I submit, namely, that if there are hard cases in the valuation they take into account a number of factors but certainly not the intention. Therefore, I am unable to accept the amendment.

MR. CHAIRMAN : The question is :

"In item (iv) to sub-clause (1) (*a*), *after* the words and figures section (4), sub-section (1)', at the end, *add* the following :—

'and any other use to which it may be put by reason of its suitability or adaptability and which the person interested had in view before such date'."

The amendment was put and lost.

Clause 3 was put and carried.

Clauses 4 and 5 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI R. VENKATARAMAN : Mr. Chairman, I move :

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be passed'.

MR. CHAIRMAN : Motion moved :

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be passed'.

SRI MOHAMED RAZA KHAN : Mr. Chairman, Sir, it is not as if the Members of the Legislature alone are concerned about this. There is also indication of how the public feels about it. There was an editorial in a leading paper about this measure. I do not want to quote in extenso what the 'Hindu' has editorially commented on this measure. It has said : 'Madras may be raising a host of problems that will need patient and sympathetic sorting out and adjustments and modifications in the new measure'. Apart from the editorial comment which only reflects public opinion, we in the opposition tried our very best to see whether some modifications, some changes could be made in the measure based on reason, logic and equity. We have done our best and we do not feel sorry that our suggestions have not been accepted. We are happy we have done our best and played our part.

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THE HON. SRI R. VENKATARAMAN : Mr. Chairman, Sir, printed ignorance passes for wisdom. I have nothing more to add.

MR. CHAIRMAN : The question is :

'That the Land Acquisition (Madras Amendment) Bill, 1961 (L.A. Bill No. 11 of 1961), as passed by the Legislative Assembly, be passed'.

The motion was put and carried and the Bill was passed.

MR. CHAIRMAN : The House will now adjourn *sine die*.

The House then adjourned *sine die*.

III.—PAPERS LAID ON THE TABLE OF THE HOUSE.

267. *Notifications issued with G.O. No.* 5232, *Revenue, dated 20th December* 1960, *regarding exemption from the tax payable under section* 3 (1) *of the Madras General Sales Tax Act,* 1959 (*Madras Act I of* 1959 *of the manufacture and sale of compost manures to agriculturists and agricultural co-operative societies.*

268. *Order issued with G.O. Ms. No.* 2506, *Revenue, dated 7th June* 1960, *regarding exemption from liability to entertainments tax of certain film shows exhibited at the Children's Theatre, Madras, by the Information and Publicity Department of the Government of Madras and by the Films Division of the Government of India.*

269. *Notifications issued with G.O. No.* 5274, *Revenue, dated 22nd December* 1960, *regarding exemption from sales tax of all sales of vegetables, fresh fruits, betel and plantain leaves, flowers, eggs, meat and fish (other than canned meat and fish) and the purchases of potatoes.*

270 and 271. *Notifications issued with G.O. Ms. No.* 329, *Revenue, dated* 21*st January* 1961 *and G.O. Ms. No.* 214, *Revenue, dated* 12*th January* 1961, *appointing* 16*th and* 9*th February* 1961 *as the dates on which the provisions of the Madras Estates (Abolition and Conversion into Ryotwari) Act,* 1948 (*Madras Act XXVI of* 1948) *other than sections* 1, 2, 4, 5, 7, 8, 58-*A*, 62, 67 *and* 68 *which have already come into force shall come into force in the Alagiyanakipuram Inam Estate in Pattukottai taluk and Nemmellikkudi Padugai Inam Estate in the Papanasam taluk, Thanjavur district respectively.*

272. *Notification issued with G.O. No.* 300, *Revenue, dated* 19*th January* 1961, *regarding exemption of certain classes of dealers from the operation of the Madras General Sales Tax Act,* 1959 (*Madras Act I of* 1959).

273. *Notification issued with G.O. Ms. No.* 129, *Local Administration, dated* 17*th January* 1961, *regarding inclusion of certain villages in the Tiruvallur Panchayat Union, Chingleput Development district.*

* 274. *Annexure to the Land Acquisition (Madras Amendment Bill* 1961 (*L.A. Bill No.* 11 *of* 1961).

* Sent by Specil Messengers on 1st April 1961.

APPENDIX I.

[Vide answer to starred question No. 232 asked by Sri Mohamed Raza Khan at the meeting of the Legislative Council held on 3rd April 1961, page 169 supra.]

Transfer and lease of State Government lands to the Reserve Bank, Port Trust and to the All-India Radio—Terms and conditions—Answer to Starred Legislative Council question No. 232 of 1961.

RESERVE BANK OF INDIA :

In 1952 an extent of ten grounds and 292 square feet in T.S. No. 11715 (Part) of Georgetown has been granted to the Reserve Bank of India on payment of market value at Rs. 7,000 per ground on a freehold tenure, i.e., free of all payments of annual ground rent. The collection of 25 times the ground-rent was also waived.

MADRAS PORT TRUST :

In 1951 an extent of 86 acres of land in the unsurveyed foreshore to the east of Fort St. George was transferred to the Port Trust on payment of compensation of Rs. 30 lakhs. In 1959 a further extent of about 427 grounds was placed at the disposal of the Port Trust subject to the payment of cost at Rs. 3,000 per ground.

In 1960 further extents measuring 733 grounds at Rs. 3,000 per ground and 97 grounds at Rs. 2,000 per ground and 116.5 grounds at Rs. 1,500 per ground have been placed at the disposal of the Port Trust.

These transfers are subject to the following conditions :—

(i) that only diesel locos should be used in the Marshalling Yard to avoid coal dust;

(ii) that the Madras Port Trust should obtain the previous permission of this Government for putting up any building opposite to the Secretariat Buildings to a width of 250 feet on either site of the Flagmast and for buildings over 60 feet height elsewhere;

(iii) that the buildings facing the main road to be put up by the Port Trust should harmonise with the surroundings;

(iv) that this Government will have the right of use over 7½ acres of land along the North Bank of the Cooum that may be required by the High Power Technical Committee for Cooum Improvement till 1966 or till the necessity ceases, whichever is earlier; and

(v) that the right of the Government to withdraw the permission granted in 1959 and 1960 is reserved.

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ALL-INDIA RADIO :

In 1953 an extent of land measuring 72 grounds and 88 square feet in R.S. Nos. 990/1 and 2344/1 of Mylapore, Madras has been leased to the All-India Radio for a period of 30 years from 1950 subject to the usual conditions governing such leases which include the right of resumption of the land.

Appendix II.

[Vide item II on page 170 supra.]

L.A. BILL NO. 11 OF 1961.

(As passed by the Assembly)

A Bill further to amend the Land Acquisition Act, 1894, *in its application to the State of Madras.*

Whereas it is expedient further to amend the Land Acquisition Act, 1894 (Central Act I of 1894), in its application to the State of Madras;

Be it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Land Acquisition (Madras Amendment) Act, 1961.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the State Government may, by notification, appoint; and different dates may be appointed for different areas.

2. *Definition.*—In this Act, unless the context otherwise requires, " housing scheme " means any State Government scheme the purpose of which is increasing house accommodation and includes any scheme by a local authority, company or body corporate for such purpose undertaken with the previous sanction of the State Government.

3. *Sections* 23 *and* 24 *of Central Act I of* 1894 *to apply with certain modifications in respect of acquisition of lands for housing schemes.*—Where any land is acquired for the execution of any housing scheme, the Land Acquisition Act, 1894 (Central Act I of 1894), as in force in the State of Madras, shall apply subject to the following modifications, namely :—

(1) In section 23 of the said Act,—

(*a*) in sub-section (1),

(i) for clause *first*, the following clause shall be substituted, namely :—

" *first*, the market value of the land at the date of the publication of the notification under section 4, sub-section (1), or an amount equal to the average market value of the land during the five years immediately preceding such date, whichever is less; "

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(ii) in clause *fifthly*, the word "and" occurring at the end shall be omitted;

(iii) in clause *sixthly*, the word "and" shall be added at the end; and

(iv) after clause *sixthly*, the following clause shall be added, namely :—

" *seventhly*, the use to which the land was put at the date of the publication of the notification under section 4, sub-section (1)."

(*b*) in sub-section (2), for the words "fifteen per centum", the words "five per centum" shall be substituted.

(2) In section 24 of the said Act,—

(i) in clause *sixthly*, the word "or" occurring at the end shall be omitted;

(ii) in clause *seventhly*, the word "or" shall be added at the end; and

(iii) after clause *seventhly*, the following clause shall be added, namely :—

" *eighthly*, any increase to the value of the land acquired by reason of its suitability or adaptability for any use other than the use to which the land was put at the date of the publication of the notification under section 4, sub-section (1)."

4. *Application of the Act to pending cases of acquisition.*—The provisions of section 3 shall apply also to every case in which proceedings have been started before the commencement of this Act for the acquisition of any land for the execution of any housing schemes, provided that no award has been made by the Collector under section 11 of the Land Acquisition Act, 1894 (Central Act 1 of 1894), before such commencement.

5. *Saving of other laws.*—Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force regulating any of the matters dealt with in this Act.

FINANCIAL MEMORANDUM.

The Bill seeks to amend the Land Acquisition Act in regard to the principles on which compensation is to be awarded for the lands acquired for housing schemes.

The expenditure on the acquisition of lands required for housing schemes depends upon the extent of lands required for the various housing schemes, for which, ordinarily provision is made in the State Budget under the respective head of account. It is, however, not possible to forecast at this stage with any precision the expenditure that will be incidental to the administration of the proposed legislation.

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